



[6710-01-P]

FARM CREDIT SYSTEM INSURANCE CORPORATION

12 CFR Part 1402

RIN 3055-AA12

Releasing Information; Availability of Records of the Farm Credit System Insurance Corporation; Fees for Provision of Information

AGENCY: Farm Credit System Insurance Corporation.

ACTION: Final rule.

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SUMMARY: The Farm Credit System Insurance Corporation (Corporation) issues a final rule amending its regulations to reflect changes to the Freedom of Information Act (FOIA). The FOIA Improvement Act of 2016 requires the Corporation to amend its FOIA regulations to extend the deadline for administrative appeals, to add information on dispute resolution services, and to amend the way the Corporation charges fees.

DATES: Effective date: This regulation will become effective October 1, 2016.

FOR FURTHER INFORMATION, CONTACT: Howard Rubin, General Counsel, Farm Credit System Insurance Corporation, 1501 Farm Credit Drive, McLean, Virginia 22102, (703) 883-4380, TTY (703) 883-4390.

## SUPPLEMENTARY INFORMATION:

### I. Objective

The objective of this final rule is to reflect changes to the FOIA by the FOIA Improvement Act of 2016 (Improvement Act). The Improvement Act addresses a range of procedural issues, including requirements that agencies establish a minimum of 90 days for requesters to file an administrative appeal and that they provide dispute resolution services at various times throughout the FOIA process. The Improvement Act also updates how fees are assessed.

We revise the regulations as follows:

(1) In § 1402.14,

a. By changing the appeals deadline from 30 days to 90 days in paragraph (b);

b. By adding FCSIC's FOIA Public Liaison and the Office of Government Information Services to the list of offices available to offer dispute resolution services in paragraph (b); and

(2) In § 1402.22, by redesignating existing paragraph (h) as paragraph (k) and adding new paragraphs (h), (i), and (j) with updated information about charging fees.

### II. Certain Findings

We have determined that the amendments mandated by the Improvement Act involve agency management and technical changes. Therefore, the amendments do not constitute a rulemaking under the Administrative Procedure Act (APA), 5 U.S.C. 551, 553(a)(2). Under the APA, the public may participate in the promulgation of rules that have a substantial impact on the public. The amendments to our regulations relate to agency management and technical changes only and are required by statute, and therefore, do not require public participation.

Even if these amendments were a rulemaking under 5 U.S.C. 551, 553(a)(2) of the APA, we have determined that notice and public comment are unnecessary and contrary to the public interest. Under 5 U.S.C. 553(b)(B) of the APA, an agency may publish regulations in final form when the agency for good cause finds that notice and public procedure thereon are impracticable, unnecessary, or contrary to public interest. The proposed amendments are required by statute, do not involve Corporation discretion, and provide additional protections to the public through the existing regulations. Thus, notice and public procedure are impracticable, unnecessary, and contrary to the public interest.

### III. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Corporation hereby certifies that the final rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 12 CFR Part 1402

Archives and records, Freedom of information, Insurance.

As stated in the preamble, part 1402 of chapter XIV, title 12 of the Code of Federal Regulations is amended as follows:

PART 1402 - RELEASING INFORMATION

1. The authority citation for part 1402 is revised to read as follows:

Authority: Secs. 5.58, 5.59 of Pub. L. 92-181, 85 Stat. 583 (12 U.S.C. 2277a-7, 2277a-8); 5 U.S.C. 552; 52 FR 10012; E.O. 12600, 52 FR 23781, 3 CFR, 1987 Comp., p. 235.  
Subpart B-Availability of Records of the Farm Credit System Insurance Corporation

2. Section 1402.14(b) is revised to read as follows:  
§ 1402.14 Response to requests for records.

\* \* \* \* \*

(b) Within 90 days of the receipt of a notice denying, in whole or in part, a request for records, the requester may appeal the denial. The appeal shall be in writing addressed to the Chief Financial Officer, Farm Credit System Insurance Corporation, McLean, Virginia 22102, and both the letter and envelope shall clearly be marked "FOIA Appeal." An appeal improperly addressed shall be deemed not to have been received for purposes of the 20-day time period set forth in paragraph (c) of this section until it is received, or would have been received with the exercise of due diligence by Farm Credit System Insurance Corporation personnel. You also have the right to seek dispute resolution services from the Corporation's FOIA Public Liaison, McLean, Virginia 22102, and the Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road - OGIS, College Park, Maryland, 20740-6001.

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#### Subpart C—Fees for Provision of Information

3. Section 1402.22 is amended by redesignating paragraph (h) as paragraph (k) and adding new paragraphs (h), (i), and (j) to read as follows:

§ 1402.22 Fees to be charged.

\* \* \* \* \*

(h) We will not assess fees if we fail to comply with any time limit under the FOIA or these regulations, and have not timely notified the requester, in writing, that an unusual circumstance exists. If an unusual circumstance exists, and timely, written notice is given to the requester, we may be excused an additional 10 working days before fees are automatically waived under this paragraph (h).

(i) If we determine that unusual circumstances apply and more than 5,000 pages are necessary to respond to a request, we may charge fees if we provided a timely, written notice to the requester and discussed with the requester via mail, E-mail, or telephone (or made at least three good faith attempts to do so) how the requester could effectively limit the scope of the request.

(j) If a court has determined that exceptional circumstances exist, a failure to comply with time limits imposed by these regulations or FOIA shall be excused for the length of time provided by court order.

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Date: August 24, 2016.     Dale L. Aultman,  
   Secretary to the Board,  
   Farm Credit System Insurance  
   Corporation.

